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ALVORD AND ALVORD

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ELLSWORTH C. ALVORD (1964)

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MILTON C. GRACE\*  
GEORGE JOHN KETO\*\*  
RICHARD N. BAGENSTOS

RECORDATION NO. 1425

20006

RECORDATION NO. 1425

13156

13156

200 WORLD CENTER BUILDING

SIXTEENTH STREET, N.W.

WASHINGTON, D.C.

JUN 25 1981 10 15 AM

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

1-176A070

No.

Date JUN 25 1981

Fee \$ 50.00

T. D. S.

OF COUNSEL  
JESS LARSON  
JOHN L. INGOLDSBY  
URBAN A. LESTER

CABLE ADDRESS  
"ALVORD"

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393-2266

TELEX  
440348 CDAA UI

Ms. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
Washington, D.C.

Dear Madam:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. §11303(a) and the regulations thereunder are counterparts each of a Conditional Sale Agreement dated as of June 1, 1981 and an Assignment of Conditional Sale Indebtedness dated as of June 1, 1981 ("Documents").

A general description of the railroad equipment covered by the Documents is:

One hundred twenty-seven (127) 4,000 cubic foot capacity 100-ton rotary dump railroad coal cars bearing reporting mark and numbers RECX 2125 through RECX 2250, both inclusive, and RECX 1003.

The names and addresses of the parties to the Documents are:

Seller/Assignor: Thrall Car Manufacturing Company  
Post Office Box 218  
Chicago Heights, Illinois 60411

Buyer: Wilmington Trust Company, as  
Owner, Trustee  
10th and Market Street  
Wilmington, Delaware 19899

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C. T. Kappler

Ms. Agatha L. Mergenovich  
Interstate Commerce Commission  
June 25, 1981  
Page Two

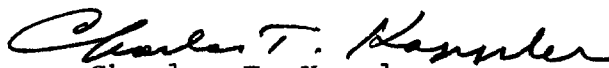
Assignee:                   The Connecticut Bank and Trust  
                                  Company, as Agent  
                                  One Constitution Plaza  
                                  Hartford, Connecticut   06115

The undersigned is agent for the Assignee for the purpose of submitting the Documents for recordation and has knowledge of the matters set forth therein.

Please return the stamped counterparts of the Documents not needed for your files to Charles T. Kappler, Esq., Alvord and Alvord, 200 World Center Building, 918 16th Street, N.W., Washington, D.C. 20006 or to the bearer hereof.

Also enclosed is a remittance in the amount of \$50.00 in payment of the required recordation fee.

Very truly yours,

  
Charles T. Kappler

CTK/lac  
Enclosures

13156/4

REGISTRATION NO. \_\_\_\_\_ FILED 1981

JUN 25 1981 - 9 15 AM

INTERSTATE COMMERCE COMMISSION

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ASSIGNMENT OF CONDITIONAL SALE INDEBTEDNESS

among

THRALL CAR MANUFACTURING COMPANY,  
Manufacturer,

THE CONNECTICUT BANK AND TRUST COMPANY, as Agent,

and

WILMINGTON TRUST COMPANY, as Owner Trustee,  
Buyer

Dated as of June 1, 1981

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ASSIGNMENT OF CONDITIONAL SALE INDEBTEDNESS, dated as of June 1, 1981, among THRALL CAR MANUFACTURING COMPANY (the "Manufacturer"), THE CONNECTICUT BANK AND TRUST COMPANY, as Agent (the "Agent"), and WILMINGTON TRUST COMPANY, not individually but solely as trustee (the "Buyer") under the Trust Agreement, dated as of June 1, 1981, with Texas Commerce International Leasing Company (the "Trust Agreement").

#### RECITALS

A. The Manufacturer, as Seller thereunder, and the Buyer have entered into a Conditional Sale Agreement, dated as of the date hereof (the "Conditional Sale Agreement", capitalized terms used herein without other definition being used as defined therein), covering the construction, sale and delivery, on the conditions therein set forth, by the Seller and the purchase by the Buyer of the Equipment.

B. The Buyer, as Lessor thereunder, and Central Louisiana Electric Company, Inc. (the "Lessee") have entered into a Lease of Railroad Equipment, dated as of the date hereof (the "Lease"), providing for the lease to the Lessee of the Equipment.

NOW, THEREFORE, in consideration of the payments herein referred to, the receipt of which is hereby acknowledged by the Manufacturer, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

Section 1. Assignment. The Manufacturer hereby assigns, transfers and sets over unto the Agent, its successors and assigns:

(a) all the right, title and interest of the Manufacturer in and to each Unit of the Equipment;

(b) all the right, title and interest of the Manufacturer in, to and under the Conditional Sale Agreement and the Conditional Sale Indebtedness and in and to any and all other amounts which may be or become due or owing to the Manufacturer under the Conditional Sale Agreement (except the right to receive the Down Payment and the right to reimbursement for taxes paid or incurred by the Manufacturer); and

(c) except as limited by subdivision (b) of this Section 1, all the Manufacturer's rights, titles, powers, privileges and remedies under the Conditional Sale Agreement;

without, in each case any recourse against the Manufacturer for or on account of the failure of the Buyer to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement, provided that this Assignment shall not subject the Agent to, or transfer, or in any way affect or modify, the obligations of the Manufacturer to construct and to deliver the Equipment to be sold by it in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained or referred to in Section 15 of the Conditional Sale Agreement or relieve the Buyer from its obligations contained in the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Section 16 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Buyer with respect to the Equipment shall be and remain enforceable by the Buyer, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Agent in the Agent's own name, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Agent is or may become entitled under this Assignment and compliance by the Buyer with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Agent and the Lenders.

Section 2. Conditions Precedent Satisfied. The Manufacturer acknowledges receipt from the Agent of the full amount of the Conditional Sale Indebtedness created pursuant to clause (a) of Section 4.1 of the Conditional Sale Agreement in cash, and the satisfaction of all conditions precedent required to be performed or complied with to the satisfaction of the Manufacturer on or prior to the Closing Date.

Section 3. Representations and Warranties of Manufacturer. The Manufacturer represents and warrants to the Buyer and the Agent as follows:

(a) The Manufacturer had, upon the delivery of the Equipment under the Conditional Sale Agreement, legal title to such Units and good and lawful right to sell such Units to the Buyer and such title was free of all Liens of any nature except the rights created under the Conditional Sale Agreement, the Lease and this Assignment.

(b) The Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and, assuming due authorization, execution and delivery thereof by the Buyer, constitutes a legal, valid and binding obligation of the Manufacturer enforceable against the Manufacturer in accordance with its terms.

(c) The Conditional Sale Agreement is in full force and effect without any amendment, modification or waiver.

(d) The Manufacturer has not assigned or pledged the whole or any part of the rights assigned hereby to anyone other than the Agent. Prior to the assignment contained in Section 2 hereof, the Manufacturer had legal title in and to the Conditional Sale Indebtedness, free of all Liens of any nature.

Section 4. Manufacturer's Agreements. The Manufacturer agrees for the benefit of the Agent that it (a) will fully conform and comply except as provided in this Assignment with each of and all of the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Seller, (b) will warrant and defend title to the Units of the Equipment delivered by it to the Buyer on the Closing Date against the demands of all persons based on or arising out of any event or condition occurring or existing prior to the delivery of such Units under the Conditional Sale Agreement and against any failure or alleged failure of the Manufacturer to transfer full title to such Units to the Buyer, free and clear of all Liens except the rights created under the Conditional Sale Agreement, the Lease and this Assignment, and (c) will warrant and defend the title of the Agent in and to the Conditional Sale Indebtedness against the demands of all persons based on or arising out of any event or condition occurring or existing prior

to the delivery of the Units on the Closing Date and the payment by the Agent of the amounts referred to in Section 2 of this Assignment and the Manufacturer will indemnify, protect and hold harmless the Agent from and against all expenses (including reasonable attorneys' fees), loss or damage suffered by reason of any of such demands referred to in clause (b) or (c) of this Section 4. The Manufacturer agrees that any amounts payable to it by the Buyer or the Lessee with respect to the Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Agent, shall not be secured by any Lien, charge or security interest upon the Equipment or any Unit thereof.

Section 5. Manufacturer's Indemnities. In the event of any suit, proceeding or action brought by the Agent under the Conditional Sale Agreement for any installment of, or interest on, the Conditional Sale Indebtedness or to enforce any provision of the Conditional Sale Agreement, the Manufacturer will indemnify, protect and hold harmless the Agent from and against all expenses (including reasonable attorneys' fees), loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Buyer or the Lessee arising out of a breach by the Manufacturer of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Buyer or the Lessee by the Manufacturer. The Manufacturer's obligation so to indemnify, protect and hold harmless the Agent is conditioned upon (a) the Agent's timely motion or other appropriate action, on the basis of the Buyer's consent to this Assignment, to strike any defense, setoff, counterclaim or recoupment asserted by the Buyer or the Lessee in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Agent's prompt notification to the Manufacturer of the asserted defense, setoff, counterclaim or recoupment and the Agent's giving the Manufacturer the right, at the Manufacturer's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Lessee and not manufactured by the Manufacturer and in cases of designs, systems, processes, formulae or com-

binations specified by the Lessee and not developed or purported to be developed by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Agent from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Agent or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Agent will give prompt notice to the Manufacturer of any claim actually known to the Agent which is based upon any such alleged infringement and will give the Manufacturer the right, at the Manufacturer's expense, to compromise, settle or defend against such claim.

Section 6. Further Assignment by Agent. The Agent may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Buyer thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Section 16.2 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder.

Section 7. Further Assurances. The Manufacturer will from time to time, at the request of the Agent or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do all such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Agent or intended so to be, and upon any request of the Agent, its successors and assigns, the Manufacturer will execute any and all instruments which may then be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the Equipment.

Section 8. Buyer's Consent. The Buyer consents to all of the terms and conditions of this Assignment and agrees that (a) it will pay or cause to be paid all amounts payable by it under the Conditional Sale Agreement except amounts payable to the Manufacturer under clause (b) of Section 4.1 thereof in immediately available funds by 11:00 a.m.,



New York time, on the date due to The Connecticut Bank and Trust Company, as Agent, at One Constitution Plaza, Hartford, Connecticut 06115, Attention: Corporate Trust Department (or at such other address as may be furnished to the Buyer by the Agent); (b) the Agent shall be entitled to all the rights, remedies and privileges of the Seller and shall be entitled to the benefits of, and to receive and enforce performance of, all of the representations, warranties, indemnities, agreements and covenants of the Buyer under the Conditional Sale Agreement as though the Agent were originally named therein as the Seller; (c) the Buyer will not assert against the Agent any claim or defense which the Buyer may now or hereafter have against the Manufacturer; (d) the Agent shall not, by virtue of this Assignment, be or become subject to any liability or obligation under the Conditional Sale Agreement (except for the performance of the agreements of the Seller (or its assignee) set forth in Sections 7, 9.2(b) and 9.2(c) thereof); (e) the Conditional Sale Agreement shall not, without the prior written consent of the Agent, be amended, terminated or modified, nor shall any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Conditional Sale Agreement or this Assignment or of any of the rights created by any thereof; (f) the security interest assigned, transferred and set over hereby shall, in addition to the payments and performance secured in the Conditional Sale Agreement, secure as well the performance by the Buyer of all of its obligations and agreements contained in, and the payment of all amounts payable to the Agent or the Lenders pursuant to, the Participation Agreement and each of its other Basic Agreements; and (g) the Buyer shall not assert against the Manufacturer any claim under Section 7, 9.2(b) or 9.2(c) of the Conditional Sale Agreement.

Section 9. Buyer Not Personally Liable.

Wilmington Trust Company is entering into this Assignment solely as trustee for the Owner under the Trust Agreement and not in its individual capacity, and in no case whatsoever shall Wilmington Trust Company (or any entity acting as successor trustee, co-trustee or separate trustee under the Trust Agreement) be personally liable on, or for any loss in respect of, any of the statements, representations, warranties, agreements or obligations of the Buyer hereunder, as to all of which the Manufacturer and the Agent agree to look solely to the Trust Estate (as such term is defined in the Trust Agreement), except for any loss caused

by its own wilfull misconduct or gross negligence.

Section 10. Governing Law. This Assignment has been negotiated in, is being made and delivered in, and shall be governed by and construed in accordance with the laws of, the State of New York.

Section 11. Counterparts. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed before the undersigned witnesses in their respective corporate names by duly authorized officials and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

Witnesses:

Thomas E. Petri  
George Becht

[Corporate  
Seal]

THRALL CAR MANUFACTURING COMPANY

By [Signature]  
Vice President

Attest:

[Signature]  
Assistant Secretary

Witnesses:

Patty Lynch  
Tillman Rodriguez

[Corporate  
Seal]

THE CONNECTICUT BANK AND TRUST  
COMPANY, as Agent

By [Signature]  
Authorized Officer

Attest:

[Signature]  
Authorized Officer

Witnesses:

Shylla J. Hernandez  
Richard A. Kuk

WILMINGTON TRUST COMPANY,  
as Owner Trustee

[Corporate  
Seal]

By [Signature]  
Vice President

Attest:

[Signature]  
Trust Officer

STATE OF ILLINOIS )  
 ) ss.:  
COUNTY OF COOK )

On the 20<sup>th</sup> day of June, in the year 1981, before me personally came John P. Lynch, to me known, who being by me duly sworn, did depose and say that he resides at 532 East 168<sup>th</sup> St., So. Holland, Ill., that he is Vice President of Thrall Car Manufacturing Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order in the presence of the subscribing witnesses.

Joan C. Lionetti  
Notary Public

[NOTARIAL SEAL]

STATE OF CONNECTICUT )  
 ) ss.:  
COUNTY OF HARTFORD )

On the 24 day of June, in the year 1981, before me personally came CLARK M. WHITCOMB, to me known, who being by me duly sworn, did depose and say that he resides at West Branbury, Conn., that he is ASSISTANT VICE PRESIDENT of The Connecticut Bank and Trust Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order in the presence of the subscribing witnesses.

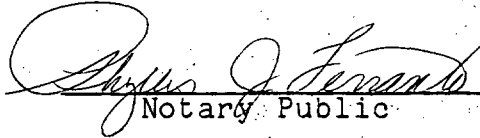
Carol Lee Shattuck  
Notary Public

[NOTARIAL SEAL]

**CAROL LEE SHATTUCK**  
**NOTARY PUBLIC**  
**MY COMMISSION EXPIRES MARCH 31, 1982**

STATE OF DELAWARE     )  
                              ) ss.:  
COUNTY OF NEW CASTLE )

On the 23rd day of June, in the year 1981, before me personally came Clark H. Woolley, to me known, who being by me duly sworn, did depose and say that he resides at Wilmington, Delaware, that he is Vice President of Wilmington Trust Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order in the presence of the subscribing witnesses.

  
Notary Public

[NOTARIAL SEAL]